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BEFORE THE FEDERAL ELECTION COMMISSION

2010 NOV 23 PM 3: 02

2010 NOV 23 P 2: 47

In the Matter of)

MUR 6324)

John Edwards for President)

and Julius Chambers, as treasurer)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

CELA

SENSITIVE

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal, or in certain cases where the responses sufficiently rebut the allegations set forth in the complaint, a no reason to believe finding. The Office of General Counsel scored MUR 6324 as a low-rated matter.

In this matter, the complainant, Mark K. Thomas, alleges that John Edwards for President and Julius Chambers, in his official capacity as treasurer ("the Committee"), violated 2 U.S.C. § 441a(f) of the Federal Election Campaign Act of 1971, as amended (the "Act"), by accepting an excessive contribution. According to Mr. Thomas, he used a checking account held jointly by himself and his wife, Lynn Thomas, to make a \$4,600 contribution to the Committee on November 26, 2007. In response, the Committee sent him a letter dated December 20, 2007, thanking him for his contribution but noting that "Federal law limits contributions . . . to \$2,300 per person" per election cycle.¹ The letter further states that half of the \$4,600 contribution had been reattributed to Mr. Thomas' wife, Lynn Thomas,

¹ The Committee's 2007 Year-End Report discloses a \$2,300 contribution from Lynn Thomas, made on December 10, 2007, and a \$2,300 contribution from Mark Thomas, made on the same date. Both contributions were designated for the primary election.

1 as her name was also imprinted on the check, and offers the opportunity of seeking a refund
2 "if you did not intend for your contribution to be a joint contribution."

3 According to Mr. Thomas, because he and his wife had not intended to make a joint
4 contribution, he contacted the Committee by telephone and mail in December 2007,
5 requesting a \$2,300 refund. A copy of the Committee's December 20, 2007 letter to
6 Mr. Thomas, includes what appears to be a handwritten note to the Committee from
7 Mr. Thomas requesting the refund. The letter also contains a notation reading "Sent again
8 5/19/08" which, according to Mr. Thomas, represents his third effort to obtain a refund.
9 Finally, Mr. Thomas states that he sent the Committee an email dated September 2, 2008,
10 stating that his wife, Lynn Thomas, had not wished to make a contribution to the Edwards
11 campaign, and again requested a contribution refund. A copy of what appears to be the email
12 is appended to the complaint. Nonetheless, according to Mr. Thomas, he has received neither
13 a refund nor a reply from the Committee.²

14 In its response, the Committee states that it received a check in the amount of \$4,600,
15 which was drawn on the Thomas' joint checking account, imprinted with the names "Mark K.
16 Thomas" and "Lynn Thomas," and signed by Mr. Thomas. This check, according to the
17 Committee and attached to its response, was accompanied by a donor card that includes the
18 printed names "Mark and Lynn Thomas," and what appear to be separate signatures by "Mark
19 Thomas" and "Lynn Thomas" on the "contributor signature" line.

20 The Committee acknowledges that, according to 11 C.F.R. § 110.1(k)(3)(ii)(B)(2), a
21 committee receiving a check imprinted with the name of more than one individual may

² Mr. Thomas also requests that the Committee pay him \$100,000 for "pain, suffering, and emotional distress."

1 attribute the excessive portion of the contribution among the individuals listed, and must
2 notify the contributor that he or she may seek a refund. As the Committee points out,
3 however, a committee need not send a notification or seek reattribution approval where a
4 different instruction is in a separate writing signed by the contributors. See 11 C.F.R.
5 § 110.1(k)(1). Although the Committee acknowledges that it sent Mr. Thomas the
6 December 20, 2007 "reattribution" letter described above, it maintains that it did so in error,
7 as the written record—the check drawn on a joint account and the donor card signed by both
8 Mark Thomas and Lynn Thomas—indicates that the donors intended to make a joint
9 contribution of \$4,600.³ *Id.* Therefore, according to the Committee, it was under no
10 obligation to offer Mr. Thomas a refund.⁴

11 Accordingly, in light of the fact that the Committee complied with donors' expressed
12 intent, as provided for in 11 C.F.R. §§ 110.1(k)(1), this Office recommends that the
13 Commission find no reason to believe that the Committee violated 2 U.S.C. § 441a(f).

14 **RECOMMENDATIONS**

- 15 1. Find no reason to believe that John Edwards for President and Julius Chambers, in
16 his official capacity as treasurer, violated 2 U.S.C. § 441a(f); and
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18 2. Close the file and approve the appropriate letters.
19

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³ We note that Lynn Thomas neither signed the complaint nor provided a statement indicating her intent.

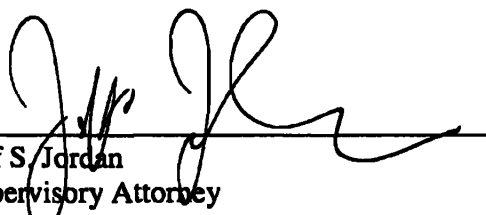
⁴ The Committee also states that Mr. Thomas requested a refund on May 19, 2008, nearly five months after he received the reattribution letter and more than three months after Mr. Edwards ended his presidential race. However, the Committee does not address the complainant's assertion that he had contacted the Committee about obtaining a refund by telephone and mail in December 2007, shortly after receiving the Committee's December 20, 2007 letter.

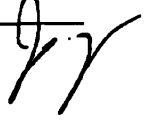
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